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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
SOUTHERN REGION OF THE CENTRAL DIVISION**

CRYSTAL LAGOONS U.S. CORP. AND
CRYSTAL LAGOONS TECHNOLOGIES
INC.,

Plaintiffs,

vs.

DESERT COLOR MANAGER LLC,
DESERT COLOR ST. GEORGE LLC, AJ
CONSTRUCTION, INC., COLE WEST
HOME LLC, HOLMES HOMES, INC.,
SULLIVAN HOMES LLC, and PACIFIC
AQUASCAPE INTERNATIONAL, INC.,

Defendants.

**ANSWER TO AMENDED
COUNTERCLAIMS**

Case No. 2:20-cv-00851-BSJ

Judge Bruce S. Jenkins

JURY TRIAL DEMANDED

Plaintiffs Crystal Lagoons U.S. Corp. and Crystal Lagoons Technologies Inc. (“Crystal Lagoons”), through their undersigned attorneys, for their Answer to Counterclaim Plaintiffs Desert Color Manager LLC, Desert Color St. George LLC (collectively “Desert Color”), and Pacific Aquascape International, Inc. (“Pacific Aquascape”) (collectively “Counterclaim Plaintiffs”) Amended Counterclaims answer as follows:

1. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted.

7. Denied.

8. Admitted.

9. Admitted.

**First Counterclaim—Declaratory Judgment of
Trademark Non-Infringement
(by Desert Color)¹**

10. Crystal Lagoons hereby realleges and incorporates Paragraphs 1-9 of the Answer to Amended Counterclaims as if set forth in full hereat.

11. Admitted.

¹ For ease of reference, Counterclaim Defendants include in their answer the same headings that are used by Counterclaim Plaintiffs in their Amended Counterclaims, but by doing so Counterclaim Defendants do not admit either (a) that any of the information conveyed by the headings is accurate or (b) any liability or wrongdoing by Counterclaim Defendants.

12. Denied.

13. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

14. Denied.

15. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

16. Denied.

17. Denied.

18. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

**Second Counterclaim—Declaratory Judgment of
Trademark Invalidity and Cancellation
(by Desert Color)**

19. Crystal Lagoons hereby realleges and incorporates Paragraphs 1-18 of the Answer to Amended Counterclaims as if set forth in full hereat.

20. Crystal Lagoons has registered trademarks in the mark CRYSTAL LAGOONS®. Crystal Lagoons denies in all other aspects.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

26. Denied.

27. Denied.

28. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

**Third Counterclaim—Declaratory Judgment of
No False Advertising
(by Desert Color)**

29. Crystal Lagoons hereby realleges and incorporates Paragraphs 1-28 of the Answer to Amended Counterclaims as if set forth in full hereat.

30. Admitted.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

38. Denied.

39. Denied.

40. Denied.

41. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

**Fourth Counterclaim—Declaratory Judgment of
No False Designation or Unfair Competition
(by Desert Color)**

42. Crystal Lagoons hereby realleges and incorporates Paragraphs 1-41 of the Answer to Amended Counterclaims as if set forth in full hereat.

43. Admitted.

44. Denied.

45. Denied.

46. Denied.

47. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

48. Denied.

49. Denied.

50. Denied.

51. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

**Fifth Counterclaim—Declaratory Judgment of
Non-Infringement of the '514 Patent
(by Desert Color and Pacific Aquascape)**

52. Crystal Lagoons hereby realleges and incorporates Paragraphs 1-51 of the Answer to Amended Counterclaims as if set forth in full hereat.

53. Admitted.

54. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

61. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

62. Denied.

63. Denied.

64. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

**Sixth Counterclaim—Declaratory Judgment of
Invalidity of the '514 Patent
(by Desert Color and Pacific Aquascape)**

65. Crystal Lagoons hereby realleges and incorporates Paragraphs 1-64 of the Answer to Amended Counterclaims as if set forth in full hereat.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

70. Denied.

71. Denied.

72. Denied.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. This paragraph speaks for itself and does not require a response. Crystal Lagoons denies in all other aspects.

REQUEST FOR RELIEF

Counterclaim Defendants are not required, under Rule 8, to respond to the relief requested in the Amended Counterclaims. Nonetheless, to the extent that any of the statements or assertions under that heading may be deemed to allege any factual or legal entitlements to the relief requested, Counterclaim Defendants deny each and every such allegations, and specifically deny that Defendants are entitled to the requested, or any, relief.

GENERAL DENIAL

Crystal Lagoons denies all allegations in the Counterclaims that are not specifically admitted in Crystal Lagoons' Answer to Amended Counterclaims responses above.

DEMAND FOR JURY TRIAL

Crystal Lagoons hereby demands that all issues so triable be determined by jury.

ADDITIONAL, AFFIRMATIVE, AND AVOIDANCE DEFENSES

Without admitting or acknowledging what must be alleged by way of affirmative or avoidance defenses or that Counterclaim Defendants bear the burden of proof as to any of the defenses set forth herein; Counterclaim Defendants allege

the following as additional, affirmative or avoidance defenses to the Amended Counterclaims, the purported claim therein, and the relief sought therein.

First Defense—Failure to State a Claim

The Amended Counterclaims fail to state a claim against Crystal Lagoons upon which relief can be granted.

FURTHER DEFENSES

In addition to the defenses set forth above, Counterclaim Defendants reserve the right to raise, assert, rely upon, or add any new or additional defenses under Rule 8(c), the laws of the United States, the laws of Utah, or any other governing jurisdictions that may exist or in the future be applicable based on discovery and further factual investigation in this Action, and reserves the right to amend any and all defenses set forth above as discovery proceeds.

Date: September 21, 2021

By: /s/ Stephen M. Sansom

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